

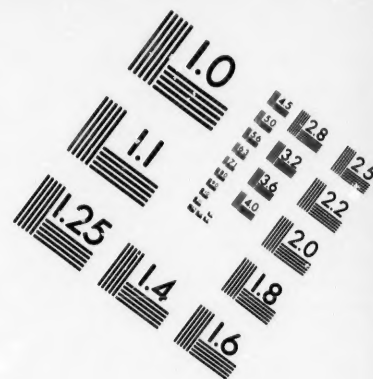
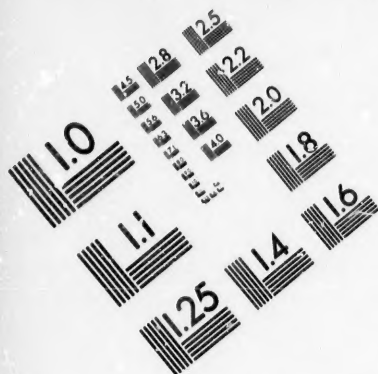
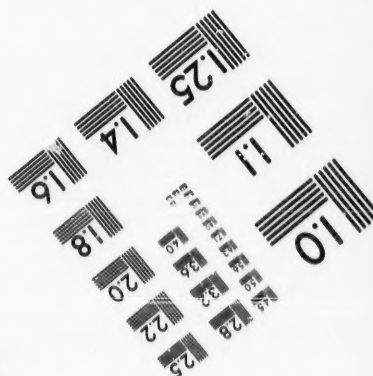
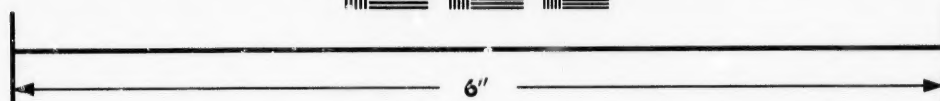
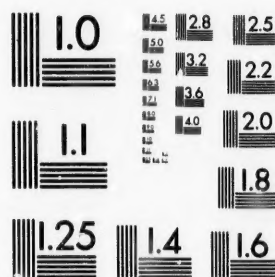


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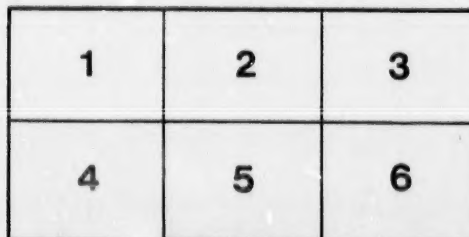
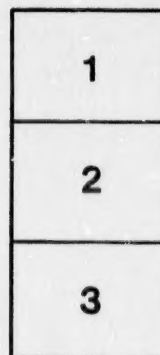
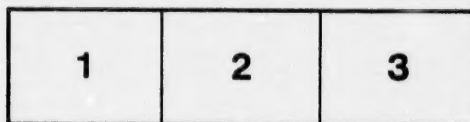
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MONTREAL WEST.

*"The Dominion Controverted
Elections Act, 1874."*

No.

Superior Court.

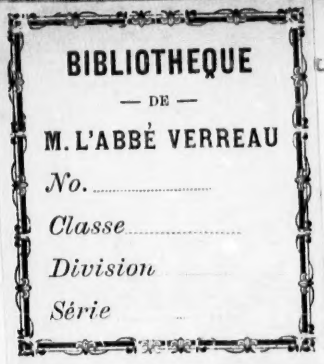
THOMAS WHITE, Jr., et al.,
PETITIONERS,

AND

FREDERICK MACKENZIE,
RESPONDENT.

PETITION.

C. P. DAVIDSON,
Attorney for Petitioners.



23-30



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The Dominion Controverted Elections Act, 1874.

Election of a member for the House of Commons for the Electoral District of Montreal West, situate within the Judicial District of Montreal, in the Province of Quebec, holden on the third and tenth days of December, in the year one thousand eight hundred and seventy-four (A. D. 1874), being respectively the days of nomination and polling at said election.

PROVINCE OF QUEBEC,
DISTRICT OF MONTREAL.

} SUPERIOR COURT.

THOMAS WHITE, JR., *et al.*,

Petitioners :

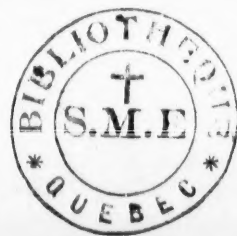
AND

FREDERICK MACKENZIE,

Respondent.

The Petition of Thomas White, jr., Printer and Publisher Andrew Robertson, Merchant; Charles Seraphin Rodier, the younger, Esquire; Jean Marie Papineau, Merchant; Alexander Shannon, Merchant; Isaïe Boudreau, Merchant; Mathew Hamilton Gault, Agent; William McNaughton, Forwarder; John Hatchette, Merchant; André Lapière, Merchant; and Bernard Tansey, Hotel keeper;—all of the City and District of Montreal in the said Province, whose names are subscribed, and who are hereinafter styled the Petitioners, sheweth as follows:—

1. Your Petitioner, Thomas White, jr., was a candidate at the above election, and your Petitioners, Andrew Robertson, Charles Seraphin Rodier, the younger, Jean Marie Papineau, Alexander Shannon, Isaïe Boudreau, Mathew Hamilton Gault,



William McNaughton, John Hatchette, André Lapi  re, and Bernard Tansey are persons who and each of whom, had a right to vote, and who did vote at the above election.

2. And your petitioners state that the election was holden on the third and tenth days of December, in the year one thousand eight hundred and seventy-four, being respectively the days of nomination and polling at said election, when Frederick Mackenzie, of the said City of Montreal, Esquire, and the said Thomas White, jr., were candidates, and the Returning Officer has returned the said Frederick Mackenzie as being duly elected, the receipt of which said return by the Clerk of the Crown in Chancery was published in the *Canada Gazette* on the nineteenth day of December last past (A. D. 1874.)

3. And your Petitioners further say that, at the said election, certain persons were procured by the said Frederick Mackenzie or by his agents or by others in his behalf to personate and falsely assume to vote in the names of certain other persons living and dead, and of certain other fictitious persons, and divers other persons were also so procured to apply at the said election for ballot papers in their own names after having already voted at the said election, the whole for the purpose of unlawfully and corruptly promoting the election of the said Frederick Mackenzie, whereby the said Frederick Mackenzie was and is incapable of being elected or sitting in the House of Commons during the continuance of the present Parliament and during the next Parliament, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

4. And your petitioners further say that the said Frederick Mackenzie by himself and by his agent or agents and by others in his behalf, at the said election, and for the purpose of unlawfully and corruptly promoting the same in his behalf, aided, abetted, counselled, and procured the commission at

the said election of the offence of personation by a certain person or certain persons, whereby the said Frederick Mackenzie was and is incapable of being elected or sitting in the House of Commons during the continuance of the present Parliament and during the next Parliament, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

5. And your petitioners further say that the said Frederick Mackenzie during said election provided and furnished drink and other refreshments at the expense of said Frederick Mackenzie to divers electors, and further, the said Frederick Mackenzie paid for and procured and engaged to pay for drinks and other refreshments to divers other electors during said election to corruptly promote the same, whereby the said Frederick Mackenzie was and is guilty of corrupt practices, and was and is incapable of being a candidate, or of being elected or returned to the present Parliament, and should be declared incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

6. And your Petitioners further say that the said Frederick Mackenzie was by himself by his agent or agents, and by others in his behalf, guilty of bribery before, during, at and after the said election, whereby the said Frederick Mackenzie was and is guilty of corrupt practices, and was and is incapable of being a candidate, or of being elected or returned to the present Parliament, and should be declared incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

7 And your Petitioners further say that the said Frederick Mackenzie was by himself, by his agent or agents, and by other persons in his behalf, before, during and at the said election, guilty of the offence of treating within the meaning of and as defined by "The Dominion Elections Act 1874," with intent to corruptly promote his said election, whereby the said Frederick Mackenzie was and is guilty of corrupt practices and was and is incapable of being a candidate or of being elected or returned to the present Parliament; and, further, should be declared incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of said Frederick Mackenzie were and are wholly null and void.

8. And your Petitioners further say that the said Frederick Mackenzie by himself, by his agent or agents, and by others in his behalf on the said days of nomination and polling, illegally and corruptly gave and caused to be given to divers voters, on account of such voters having voted or being about to vote at said election in favor of said Frederick Mackenzie, divers meats, drinks, refreshments, moneys and divers tickets to enable such voters to procure refreshments, whereby the said Frederick Mackenzie was and is guilty of corrupt practices, and was and is incapable of being a candidate or of being elected or returned to the present Parliament, and further, should be declared incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of said Frederick Mackenzie were and are wholly null and void.

9. And your petitioners further say that the said Frederick Mackenzie by himself, by his agent or agents and by others in his behalf, before, during, and at the said election, and for the purpose of corruptly promoting the same in his behalf, committed

the offence of undue influence as defined by and within the meaning of the "Dominion Elections Act, 1874," whereby the said Frederick Mackenzie was and is guilty of corrupt practices, and was and is incapable of being a candidate or of being elected or returned to the present Parliament, and should be declared incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

10. And your petitioners further say that the said Frederick Mackenzie, by himself, by his agent or agents, and by others on his behalf, did illegally and corruptly before, during, and after said election, hire, pay and promise to pay for certain horses, teams, sleighs, cabs and other vehicles to convey, and for having conveyed, voters to and near to and from divers polls, and from the neighbourhood thereof, at the said election, and did so pay the travelling and other expenses of divers voters in going to and returning from the said election for the purpose of corruptly promoting the same on his behalf, whereby the said Frederick Mackenzie was and is guilty of corrupt practices, and was and is incapable of being a candidate, or of being elected or returned to the present Parliament, and should be declared incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

11. And your petitioners further say that the said Frederick Mackenzie, by himself, by his agent or agents, and by others in his behalf, before, during and after the said election, was guilty of and did commit "corrupt practices" within the meaning of and as defined by "The Dominion Elections Act, 1874," and "The Dominion Controverted Elections Act, 1874,"

6

whereby the said Frederick Mackenzie was and is incapable of being a candidate or of being elected or returned to the present Parliament, and should be declared incapable of being elected to or sitting in the House of Commons during the seven years next after the date of his being proved or found guilty of said offences, and the said election and return of the said Frederick Mackenzie were and are wholly null and void.

12. And your petitioners further say that notorious and systematic corrupt and unlawful practices were carried on at the said election by the agents, friends and managers of the said Frederick Mackenzie, for the purpose of promoting the same in his behalf.

13. And your petitioners further say that many persons voted at the said election, and were reckoned upon the poll of the said Frederick Mackenzie, who were bribed, treated or unduly influenced to vote thereat for the said Frederick Mackenzie, and that the votes of all such persons were null and void, and one vote for every person who so voted and was so bribed, treated, or unduly influenced, ought now to be struck off from the number of votes appearing to have been given in favor of the said Frederick Mackenzie at the said election.

14. And your Petitioners further say that divers persons voted at the said election, and were reckoned upon the poll of the said Frederick Mackenzie who were before, at and after the said election guilty of bribery, treating and undue influence, and that all such persons were thereby disqualified from voting, and one vote for every person who so voted and was so guilty of bribery, treating and undue influence, ought now to be struck off from the number of votes appearing to have been given in favor of the said Frederick Mackenzie at said election.

15. And your Petitioners further say that many persons who were disqualified to vote at such election by reason of their holding or having held disqualifying employments, or having been retained or employed for reward for the purposes

of said election by the said Frederick Mackenzie and by other persons in his behalf as agents, clerks, messengers, or in other like employments, were, nevertheless, admitted to vote, and did vote for the said Frederick Mackenzie; and that one vote for every person who so voted, and was so disqualified or so retained or employed, ought now to be struck off from the number of votes appearing to have been given to the said Frederick Mackenzie at the said election.

16. And your petitioners further say that many persons voted at the said election, and were reckoned on the poll of the said Frederick Mackenzie, who were disqualified to vote at the said election by reason of their having hired divers horses, sleighs, and other conveyances for said Frederick Mackenzie and for his agent or agents, and other persons on his behalf, for the purpose of conveying voters to and from the different polling places at said election, and that one vote for every person who was so disqualified, ought now to be struck off from the number of votes appearing to have been given to the said Frederick Mackenzie at the said election.

17. And your petitioners further say that persons personated and voted in favour of the said Frederick Mackenzie, and for certain electors whose names appear on the voters' lists of said Electoral Division used at said election, but who did not themselves vote, and that such votes were illegal and void, and that one vote for every vote so recorded ought now to be struck off from the number of votes appearing to have been given to the said Frederick Mackenzie at said election.

18. And your petitioners further say that certain electors voted twice at the said election in favour of the said Frederick Mackenzie, and that the votes of such persons were illegal, null and void, and that one vote for every vote so twice recorded ought now to be struck off from the number of votes appearing to have been given to the said Frederick Mackenzie at said election.

19. And your petitioners say that several of the Deputy Returning Officers, by error and mischance, miscounted the number of votes given for each of said candidates at said election, and that the statements made out by said Deputy-Returning Officers, upon which the Returning Officer based his said return, were erroneous, in that they showed the total number of votes polled for each of said candidates to be respectively as follows:—

Frederick Mackenzie.....	2,030
Thomas White, jr.....	2,023

Whereas the real majority of good legal votes polled at the said election was in favor of the said Thomas White, jr., over the said Frederick Mackenzie.

20. And your petitioners further say that, even if the majority of votes declared by the Returning Officer in favor of the said Frederick Mackenzie really exists, which your petitioners deny, the same is only an apparent and colourable majority, inasmuch as the votes of divers persons were accepted and received on the said poll in favor of the said Frederick Mackenzie, who were not legally entitled and had no right to vote at the said election, and that one vote for every vote so unlawfully accepted and received ought now to be struck off from the number of votes appearing to have been given to the said Frederick Mackenzie at said election.

21. And your petitioners further say that several of the Deputy Returning Officers in counting the number of votes given for each candidate at said election, accepted and counted a number of ballot papers, representing votes, upon the poll of the said Frederick Mackenzie, whereas, the said ballot papers were illegal and defective, and ought to have been rejected, in that they were not in accordance with the requirements of the said "Dominion Elections Act, 1874," and more especially had upon them writings and marks by which the voters could be identified.

22. And your petitioners further say that a number of ballot papers, marked and deposited according to law, representing votes polled in favour of Thomas White, Jr., at said election, were unlawfully and illegally rejected, and not counted upon his poll.

23. And your petitioners further say that the said Thomas White, Jr., and the said Andrew Robertson, in the interest and on behalf of the electors of the said Division, and especially of your petitioners, severally obtained orders previous to the presentation of this petition from one of the Honourable Judges of said Court, requiring the Clerk of the Crown in Chancery to grant an inspection of said counted and rejected ballot papers, but the said, the Clerk of the Crown in Chancery, refused to obey said orders, or either of them, and your petitioners cannot herein, in consequence, more particularly set out the errors, defects, irregularities and illegalities connected with said ballot papers.

24. And your petitioners further say that on the twenty-second and twenty-ninth days of January, in the year one thousand eight hundred and seventy-four (A. D. 1874), there was holden an election to elect a member for the House of Commons for the said Electoral District of Montreal West, in the present Parliament of Canada, said days being respectively the days of nomination and polling at the said last mentioned election, when the said Frederick Mackenzie and Alexander Allan Stevenson, of the said City of Montreal, Printer, were candidates, and the said Frederick Mackenzie was on said twenty-ninth day of January returned as being duly elected.

25. And your petitioners say that a petition was afterwards filed in the Election Court, Montreal Division, by the said Alexander Allan Stevenson and others against the said Frederick Mackenzie, alleging that the said election was void on account of acts of corrupt practice committed by the said Frederick Mackenzie and his agents at the said election.

26. And your petitioners say that such proceedings were had upon the said petition that the same came on to be tried before the Honorable Frederick Torrance, one of the judges of the said Election Court, at the Court House, in the city of Montreal, on the twentieth day of October last and subsequent days.

27. And your petitioners further say that the said Frederick Mackenzie by himself, or by his agent or agents, or by others in his behalf, with his knowledge and consent, before, during and since the same last mentioned election, was guilty of bribery, treating, undue influence, keeping open houses and other corrupt practices, as defined by the statutes then in force governing elections for the said House of Commons, investigation into which was prevented and not had at said trial, through said Frederick Mackenzie having admitted one act of bribery by agents, upon which the said Judge declared the said last mentioned election void.

28. And your petitioners further say that the said Frederick Mackenzie, by himself, by his agent or agents and by others in his behalf, hath, since the time of said last mentioned election, fulfilled, paid and settled divers bribes, corrupt promises and corrupt undertakings, illegally and wrongfully made before and during the said election so held for the present Parliament, in the said month of January, and to corruptly induce and bribe divers electors to refrain from voting, and to induce divers other electors to vote for the said Frederick Mackenzie at the said election held in said month of December as aforesaid.

29. And your petitioners humbly submit that the exigency of the writ under which said election, so voided, as aforesaid, was held, hath never been satisfied and must be deemed to continue in full force until a valid election is held to return a member to the House of Commons for said Electoral District; and the proceedings so had upon the twenty-second and

twenty-ninth days of January last past, and the third and tenth days of December last past, in reality, formed parts of one and the same election.

That by reason of the premises and of the statutes in such case made and provided, the said Thomas White, jr., was duly elected at said last mentioned election, and ought to have been returned in the place of the said Frederick Mackenzie, whose election and return should be declared void.

Wherefore your petitioners pray that it may be determined and declared that the said Frederick Mackenzie was ineligible to be a candidate and was not duly elected or returned at said election held in the month of December aforesaid, and that his said last election and return were and are wholly null and void, and that the said return be amended and the said Thomas White, jr., be determined and declared to have been duly elected, the whole with costs.

Montreal, January, 1875.

